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April 6, 1992

APR - 6 1992 5715

Federal Communications Commission  
Office of the Secretary

VIA HAND DELIVERY

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, Room 222  
Washington, D.C. 20554

Re: KVST(FM)  
Huntsville, Texas

Dear Ms. Searcy:

Transmitted herewith, on behalf of New Wavo Communication Group, Inc., permittee of new FM broadcast station KVST(FM), Huntsville, Texas, are an original and four (4) copies of its "Petition For Rulemaking and Request for Modification of Construction Permit," seeking the substitution of Channel 279C3 for 278A at Huntsville, Texas, and modification of KVST(FM)'s construction permit (or license) accordingly.

Should any question arise concerning this matter, please communicate with this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

*Patricia A. Mahoney*  
Patricia A. Mahoney  
Counsel for New Wavo Communication  
Group, Inc.

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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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APR - 6 1992

Federal Communications Commission  
Office of the Secretary

In the Matter of ) MM Docket No. \_\_\_\_\_  
 ) RM \_\_\_\_\_  
Amendment of Section 73.202(b) )  
Table of FM Allotments )  
Huntsville, Texas )

**PETITION FOR RULEMAKING AND REQUEST FOR  
MODIFICATION OF CONSTRUCTION PERMIT**

New Wavo Communication Group, Inc. ("New Wavo"), permittee of new FM station KVST(FM), Channel 278A, Huntsville, Texas, by its attorneys, hereby respectfully petitions the Commission to institute a rulemaking proceeding for the purpose of amending Section 73.202(b) of the Commission's Rules, the Table of FM Allotments, as follows:

**Allotments**

<b><u>Community</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>
Huntsville, Texas	213A, 259A, 269A, <u>278A</u>	213A, 259A, 269A, <u>279C3</u>

In addition, pursuant to Section 1.420(g)(3) of the Commission's Rules, New Wavo requests that the Commission modify the construction permit (or license)<sup>1</sup> of KVST(FM) to specify

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<sup>1</sup> KVST(FM) has constructed the facilities authorized in its construction permit and has commenced operations pursuant to program test authority. An application for license is being filed simultaneously herewith. Thus, it is possible that KVST(FM) will receive its license before this rulemaking proceeding is completed. New Wavo requests that, if the requested rulemaking proceeding results in a change of the allotment to 279C3 after a license has been issued to KVST(FM), the license be modified accordingly.

operation on Channel 279C3 at Huntsville. The Commission may modify the construction permit (or license) of KVST(FM) without considering competing expressions of interest because the modification to Channel 279C3 will occur on the first adjacent channel to the existing authorization for KVST(FM) on Channel 278A. See FM License Upgrading, 60 R.R.2d 114, 119 (1986).

Attached as Exhibit 1 hereto is the Engineering Statement of New Wavo's technical consultant, Lyndon H. Willoughby. Mr. Willoughby, using the Huntsville, Texas reference coordinates of 30° 43' 24" north latitude and 95° 33' 00" west longitude, has demonstrated that the requested channel substitution can be made consistent with the minimum distance separation requirements of Section 73.207 of the Commission's Rules. Operation on Channel 279C3 will permit New Wavo to increase significantly KVST(FM)'s service area and is clearly in the public interest.

New Wavo has just completed construction of KVST(FM) and has commenced operations with its authorized facilities. Thus, the proposal will not delay the inauguration of new service to Huntsville. Even so, New Wavo requests that this proceeding be expedited so that improved service can begin as soon as possible.

If Channel 279C3 is substituted for Channel 278A at Huntsville, Texas, and the permit (or license) of KVST(FM) is modified accordingly, New Wavo will promptly submit an application to modify the facilities of KVST(FM) to permit construction and operation on the new channel.

Pursuant to Section 1.401(d) of the Commission's Rules, a


draft Notice of Proposed Rulemaking is attached hereto as Exhibit 2.

WHEREFORE, for the foregoing reasons, New Wavo respectfully requests that the Commission initiate a rulemaking proceeding to amend Section 73.202(b) of the Commission's Rules by substituting Channel 279C3 for Channel 278A at Huntsville, Texas. It is also requested that the construction permit (or license) of KVST(FM) be modified to specify operation on Channel 279C3.

Respectfully submitted,

NEW WAVO COMMUNICATION GROUP, INC.

By:

  
Patricia A. Mahoney  
David N. Roberts  
Its Attorneys

FLETCHER, HEALD & HILDRETH  
1225 Connecticut Avenue, N.W.  
Suite 400  
Washington, D.C. 20036  
(202) 828-5700

April 6, 1992

**EXHIBIT 1**

TECHNICAL STATEMENT IN SUPPORT  
OF PROPOSED RULE MAKING TO  
AMEND §73.202(b), FM TABLE OF ALLOTMENTS

on behalf of  
NEW WAVO COMMUNICATIONS GROUP, INC.  
KVST RADIO, CHANNEL 279C3  
HUNTSVILLE, TEXAS

APRIL, 1992

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**WILLOUGHBY & VOSS**

BROADCAST TECHNICAL CONSULTANTS  
SUITE 100-A  
15102 JONES-MALTSBERGER  
SAN ANTONIO, TEXAS 78232  
(512) 525-1111 or 490-2778

TECHNICAL STATEMENT  
IN SUPPORT OF PROPOSED RULE MAKING  
FOR KVST CH. 279C3-HUNTSVILLE, TEXAS

The firm of Willoughby & Voss has been retained by New Wave Communications Group, Inc., permittee of KVST, FCC File No. BMPH-910426IE, to prepare the instant technical statement in support of a petition for rule making to amend the FM Table of Allotments by deleting Channel 278A and assigning Channel 279C3 (103.7 MHz) at Huntsville, Texas. Further, it is requested that the KVST permit and/or license (should the license be issued prior to grant of this PRM), be modified to specify operation on Channel 279C3 per the authority of Section 1.420(g)(3) of the Commissions Rules.

An allocation study of Channel 279C3 was performed, using the Huntsville, Texas reference coordinates 30-43-24 N.L., 95-33-00 W.L. and is found to meet all Class C3 distance separation requirements of Section 73.207 of the Commission's Rules. Exhibit A is a tabulation of the allocation study.

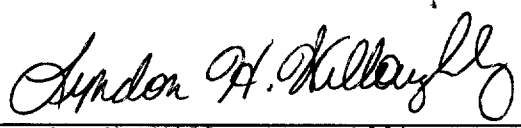
In light of the above facts, and the desire of the Commission for efficient spectrum usage, it is requested that the Table of Allotments contained in Section 73.202(b) of the Commission's Rules be amended to read as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Huntsville, TX	213A, 259A, 269A, <u>278A</u>	213A, 259A, 269A, <u>279C3</u>

Upon allotment of the above requested changes, formal application for the respective facilities will be filed with the FCC.

CERTIFICATION

The foregoing was prepared on behalf of New Wavo Communications Group, Inc., by, or under the immediate supervision of Lyndon H. Willoughby, of Willoughby & Voss, San Antonio, Texas. The affiant's qualifications are contained in previous filings and are a matter of record with the Federal Communications Commission. The statements and data contained herein are true and correct of his own knowledge, except as to statements made on information and belief and as to those statements, he believes them to be true and correct.

By   
Lyndon H. Willoughby, Affiant  
Date: 4-2-92



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WILLOUGHBY & VOSS

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Willoughby & Voss  
Broadcast Technical Consultants  
San Antonio, Texas

FM Channel Study for Channel 279A6 at 30-43-24 95-33- 0  
Safe Distance of 25.0 Kilometers  
New (6 kW) Class A spacings employed

\*\*\*\*\* STANDARD DISCLAIMER APPLIES \*\*\*\*\*

Channel Call Applicant/Licensee	City	State	Lat Long	Distance Bearing	Regrd Clear
276A	VACANT Centerville	, TX	31-15-36	72.21	31.0
		OM	95-58-42	325.60	41.21
276A	DEL Centerville	, TX	31-15-36	72.21	31.0
Radio Lee County		OM	95-58-42	325.60	41.21
276A NEW	APP Centerville	, TX	31-12-19	71.18	31.0
Caroline K. Powley		63M	96- 2-32	318.77	40.18
276A KHRN	ADD Hearne	, TX	30-51- 7	98.46	31.0
Radio Lee County		OM	96-34- 4	278.59	67.46
276A KCRM	LIC Cameron	, TX	30-45-16	130.13	31.0
KCRM Broadcasting		91M	96-54-30	271.86	99.13
277C1	USED Nacogdoches	, TX	31-34-51	126.73	75.0
		OM	94-40-16	41.17	51.73
277C1 KJCS	LIC Nacogdoches	, TX	31-34-51	126.73	75.0
Multicom Broadcasting, Inc.		107M	94-40-16	41.17	51.73
278C KEYIFM	LIC San Marcos	, TX	30- 2-42	236.28	165.0
Hicks Communications Partners L. P.		383M	97-52-50	252.03	71.28
278A KVST	CP MOD Huntsville	, TX	30-36- 3	14.99	72.0
New Wavo Communications Group, Inc.		130M	95-29- 2	154.97	-57.01
278A	USED Huntsville	, TX	30-43-24	0.00	72.0
		OM	95-33- 0	0.00	-72.00
278C	USED San Marcos	, TX	30- 2-42	236.28	165.0
		OM	97-52-50	252.03	71.28
279C1 KBIU	LIC Lake Charles	, LA	30-14-41	218.00	200.0
Dixie Broadcasters, Inc.		143M	93-20-52	103.53	18.00
279A NEW	CP Haughton	, LA	32-31-20	278.50	115.0
Cary D. Camp		100M	93-30- 5	43.73	163.50
279A	USED Haughton	, LA	32-31-57	279.15	115.0
		OM	93-30-14	43.53	164.15

KVST EXHIBIT A  
ALLOCATION STUDY

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WILLOUGHBY & VOSS

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Willoughby & Voss  
Broadcast Technical Consultants  
San Antonio, Texas

FM Channel Study for Channel 279A6 at 30-43-24 95-33- 0  
Safe Distance of 25.0 Kilometers  
New (6 kW) Class A spacings employed

\*\*\*\*\* STANDARD DISCLAIMER APPLIES \*\*\*\*\*

Channel Call Applicant/Licensee	City	State	Lat Long	Distance Bearing	Reqr'd Clear
279C	USED Highland Park-Dallas	, TX	32-34-54	246.45	226.0
	0.00 kW	OM	96-58-32	327.10	20.45
279C1	USED Lake Charles	, LA	30-14-41	218.00	200.0
	0.00 kW	OM	93-20-52	103.53	18.00
279C KVILFM	LIC Highland Park-Dallas	, TX	32-34-54	246.45	226.0
KVIL Radio, Inc.	100.00 kW	479M	96-58-32	327.10	20.45
280A KMHTFM	LIC Marshall	, TX	32-33-50	233.62	72.0
Bayou Broadcasting, Inc.	1.85 kW	129M	94-21- 4	28.82	161.62
280D K280CL	LIC Palestine	, TX	31-45-46	115.52	0.0
Roberto R. & Terrie W. Gonzalez	0.02 kW	OM	95-38- 3	356.04	
280D K280CP	LIC Temple, etc.	, TX	31- 4-40	177.76	0.0
Lee Roy Franklin	0.02 kW	OM	97-21-48	283.23	
280A	USED Marshall	, TX	32-33-50	233.62	72.0
	0.00 kW	OM	94-21- 4	28.82	161.62
280C2	USED Cameron	, TX	30-45-16	130.13	106.0
	0.00 kW	OM	96-54-30	271.86	24.13
280C2 KCRM	APP Cameron	, TX	30-45-16	130.13	106.0
KCRM Broadcasting	50.00 kW	150M	96-54-30	271.86	24.13
280C2 KCRM	CP MOD Cameron	, TX	30-53-31	115.74	106.0
KCRM Broadcasting	50.00 kW	150M	96-44-37	279.60	9.74
281C	USED Houston	, TX	29-34-34	127.23	95.0
	0.00 kW	OM	95-30-36	178.25	32.23
281A F.C.C.	ADD San Augustine	, TX	31-31-42	163.80	31.0
	0.00 kW	OM	94- 6-36	56.61	132.80
281C2	USED Tyler	, TX	32-18-59	177.02	55.0
	0.00 kW	OM	95-25-32	3.80	122.02
281C KRBEFM	LIC Houston	, TX	29-34-34	127.23	95.0
KRBE Co.	95.00 kW	585M	95-30-36	178.25	32.23

KVST EXHIBIT A  
ALLOCATION STUDY

**EXHIBIT 2**

BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of	)	MM Docket No. _____
	)	RM _____
Amendment of Section 73.202(b)	)	
Table of FM Allotments	)	
Huntsville, Texas	)	

## NOTICE OF PROPOSED RULEMAKING

By the Chief, Policy and Rules Division:

1. New Wavo Communication Group, Inc. ("Petitioner"), permittee [licensee] of new FM station KVST(FM), currently operating on Channel 278A at Huntsville, Texas, filed a Petition For Rulemaking on April 6, 1992, seeking to substitute Channel 279C3 for Channel 278A at Huntsville, Texas ("Petition"). Petitioner has also requested the issuance of a modified construction permit [license] for KVST(FM)<sup>1</sup> to change that station's assigned channel classification from Channel 278A to Channel 279C3. Petitioner has also stated its intention to use the upgraded channel, if assigned. Petitioner has demonstrated, using the reference coordinates for Huntsville, Texas, 30° 43' 24" north latitude and 95° 33' 00" west longitude, that the requested allotment change meets the class C3 distance separation requirements under the Commission's Rules.

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<sup>1</sup> When it filed its Petition, Petitioner was the permittee of KVST(FM). Petitioner filed its application for license simultaneously with the Petition.

2. In view of the foregoing, the Commission believes it appropriate to propose amending the FM Table of Allotments (Section 73.202(b) of the Commission's Rules), with regard to the following community, as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Huntsville, Texas	213A, 259A, 269A, <u>278A</u>	213A, 259A, 269A, <u>279C3</u>

The Commission also believes it appropriate, pursuant to Section 1.420(g)(3), to propose modification of Petitioner's construction permit [license], as requested, to specify operation on Channel 279C3, because the modification to a higher class channel, 279C3, will occur on the first adjacent channel to the existing allotment.

3. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before \_\_\_\_\_, and reply comments on or before \_\_\_\_\_, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on petitioner's counsel as follows:

Patricia A. Mahoney, Esquire  
Fletcher, Heald & Hildreth  
1225 Connecticut Avenue, N.W.  
Suite 400  
Washington, D.C. 20036  
(Counsel for New Wavo Communication Group,  
Inc.)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rulemakings To Amend Sections 73.202(b), 73.540 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549 (February 8, 1981).

6. For further information concerning this proceeding, contact \_\_\_\_\_, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings such as this one which involve channel assignments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or an oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who files the comment to which the reply is

directed constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division  
Mass Media Bureau